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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,973	04/07/2006	Klaus Harth	288240US0PCT	5922
22850	7590	10/20/2008		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER LIAO, DIANA J	
			ART UNIT 1793	PAPER NUMBER
			NOTIFICATION DATE 10/20/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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# Office Action Summary

**Application No.**

10/574,973

**Applicant(s)**

HARTH ET AL.

**Examiner**

DIANA J. LIAO

**Art Unit**

1793

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 September 2008.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 is/are pending in the application.  
4a) Of the above claim(s) 3-6 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1 and 2 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-893)  
4) ☐ Interview Summary (PTO-413)  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_  
Paper No(s)/Mail Date 4/7/2008

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election with traverse of claims 1 and 2 in the reply filed on 9/2/2008 is acknowledged. The traversal is on the ground(s) that the special technical feature was not interpreted in light of the description of the application. This is not found persuasive because it is still found that the special technical feature is drawn to the shape of the bodies in the bed, and that feature was not expected to make a contribution over the prior art.

The requirement is still deemed proper and is therefore made FINAL.

***Priority***

2. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d).

***Information Disclosure Statement***

3. The information disclosure statement (IDS) submitted on 4/7/2006 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 1 and 2 rejected under 35 U.S.C. 103(a) as being unpatentable over

Walsdorff, et al. (US 2001/0029235) in view of Suzuki, et al. (US 3,699,178).

Walsdorff '235 teaches a shaped catalyst for heterogeneously catalyzed reactions. The shape is a hollow cylinder or an annular tablet where the end faces are rounded. (claim 1) They are preferably inert support material which has been shaped, on which catalytically active compositions are applied. (para. 8) The radius of curvature of the end faces in one example is 0.8mm, while the external diameter is 5mm. (Fig 2) This corresponds to a radius of curvature of the end face being 0.16 times the external diameter. The shaped catalysts are preferably used in the oxychlorination of ethylene. (para. 13)

Walsdorff '235 does not teach the use of catalytically inactive bodies of this shape, in a physical mixture with catalytic bodies.

Suzuki '178 teaches a process for oxychlorination of a hydrocarbon, such as ethylene. (col 2, lines 24-28) Suzuki '178 teaches past techniques known in the art for reducing hot spots in beds for such oxychlorination processes. One of these techniques is to dilute the catalyst-bearing carrier particles with carrier particles themselves. (col 1, lines 45-51)

One would have been motivated to add diluent particles to a bed used for oxychlorination in view of Suzuki '178 in order to create a bed with lowered hot spots. Walsdorff '235 teaches that the carriers are preferably shaped before catalytic materials are deposited thereon, and Suzuki '178 teaches that the carriers themselves may be used as diluent material. Therefore, it would have been obvious to create a bed of catalytically inactive materials as well as catalytic materials of the shape described in Walsdorff '235 in view of the traditional packing strategies discussed in Suzuki '178. Claims 1 and 2 are not found patentable over the prior art.

### ***Conclusion***

Claims 1 and 2 have been rejected.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DIANA J. LIAO whose telephone number is (571)270-3592. The examiner can normally be reached on Monday - Friday 8:00am to 5:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman can be reached on 571-272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ngoc-Yen M. Nguyen/  
Primary Examiner, Art Unit 1793

DJL